

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SHIMSHON WEXLER
on behalf of himself and all others similarly
situated

Civil Action No. 1:22-cv-01348-PAE

Plaintiff,

v.

LVNV FUNDING, LLC; and
RESURGENT CAPITAL SERVICES LP;

Defendants.
-----X

DECLARATION OF SHIMSHON WEXLER

SHIMSHON WEXLER, pursuant to 28 U.S.C. § 1746 hereby declares under penalty of perjury, as follows:

1. I am over eighteen (18) years old, and make this declaration based on personal knowledge, or upon information and belief when states
2. I am a natural person and the Plaintiff in this matter. I submit this Declaration in support of my motion for an Order allowing me to take discovery and to stay the Defendants' Motion to Compel Arbitration (Dkt. No. 15) until such discovery is complete, and for such other, further, and different relief that the Court deems just and proper.
3. I am seeking the production of the "purchase agreement" whereby Citibank allegedly sold Plaintiff's account to Sherman Originator III, LLC. This alleged purchase agreement is referenced in Paragraphs 5 and 6 of the Declaration of Patti Sexton (Dkt. No. 20-1). I do not know the contents of the alleged "purchase agreement" and my attorney has advised me that this alleged agreement covers the purchase of my alleged debt by Sherman Originator III, LLC. I do not have access to said agreement

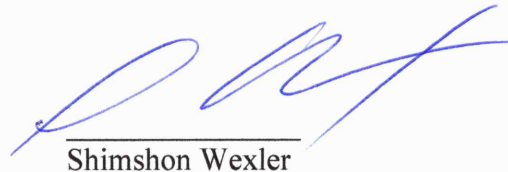
and I have not been able to obtain this alleged purchase agreement because Defendants did not attach it to their Reply Brief despite referencing it therein and no discovery Order has been entered that would compel Defendants to produce it.

4. I am seeking the production of the agreement whereby Sherman Originator III, LLC allegedly sold Plaintiff's account to Sherman Originator LLC. This alleged sale is referenced in Paragraph 7 of the Declaration of Patti Sexton (Dkt. No. 20-1). I do not know the contents of the alleged agreement and my attorney has advised me that this alleged agreement covers the purchase of my alleged debt by Sherman Originator, LLC. I do not have access to said agreement and I have not been able to obtain this alleged purchase agreement because Defendants did not attach it to their Reply Brief despite referencing it therein and no discovery Order has been entered that would compel Defendants to produce it.
5. I am seeking the production of the agreement whereby Sherman Originator LLC allegedly sold Plaintiff's account to LVNV. This alleged sale is referenced in Paragraph 7 of the Declaration of Patti Sexton (Dkt. No. 20-1). I do not know the contents of the alleged agreement and my attorney has advised me that this alleged agreement covers the purchase of my alleged debt by LVNV. I do not have access to said agreement and I have not been able to obtain this alleged purchase agreement because Defendants did not attach it to their Reply Brief despite referencing it therein and no discovery Order has been entered that would compel Defendants to produce it.
6. I am seeking the production of the agreement whereby the agreement between LVNV and Resurgent covering the placement of debts with Resurgent and providing Resurgent the right to collect Plaintiff's alleged debt. I do not know the contents of

this agreement between LVNV and Resurgent and not have access to said agreement and my attorney has advised me that Resurgent's basis for being able to compel arbitration is based on their alleged relationship with LVNV.

7. The foregoing discovery is needed to effectively challenge the threshold issue of whether Defendants can compel arbitration. LVNV arguments as to why they may compel arbitration is solely based on their claim that they are the assignee of Citibank. However, LVNV produced no bills or sale, assignment agreements or other proof that they actually purchased my alleged debt from Citibank. Without these purchase agreements it is impossible to tell if LVNV is actually the owner of my debt as was assigned all rights of Citibank including those pertaining to arbitration.
8. Based on my knowledge and belief, I do not believe that the Card Agreement attached to the affidavit of Patti Sexton is a true and accurate copy and the alleged card agreement I entered into with Citibank. Furthermore, no one from Citibank has said that the card agreement attached to Patti Sexton's declaration is the one I allegedly entered into with them.
9. Finally, I deny that I paid the debt because LVNV owed it and that Resurgent had the authority to collect it. I paid it to get the debt removed off my credit reports.

Dated: July 8, 2022



Shimshon Wexler